IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO. 2055 OF 2006

Suresh Bharmu Chougule .. Petitioner

Versus

Shri Dudhganga Sahakari Pani Purwatha

Sanstha Maryadit Respondnt

Mr.S.S.Patwardhan,Advocate, for the the petitioner.

CORAM: J.H.BHATIA,J.

DATE : 18th September, 2007

P.C.

1. Heard learned Counsel for the parties.

2. The petitioner is holding lands survey No.613 and 614 at Village Sangav, Taluka, Kagal, District Kolhapur. The respondent which is the original disputant, is a Co-operative Irrigation Society. Under the Scheme, the Irrigation Department has given permission to the respondent-Society to take water from Dudh Ganga River and to supply the same to its members for irrigation of their lands within the command area of

the Society. According to the respondent-society, there are about 1500 members. The lands survey Nos. 613 and 614 are also admittedly within the command area of the Society. Admittedly, the petitioner,who is original opponent, is also a member of the said Society in respect of the land survey No.614 and that land is irrigated through the channel provided by the Society. The land survey No.613 previously belonged to one Anna Chaugule. The petitioner purchased that land survey No.613 sometime in 2003 or thereafter. He began to lay independent pipeline from the Dudh Ganga River to his field survey No.613 for irrigation of that land. It was objected to by the Society, but in vain. Therefore, the respondent-society filed the dispute against the petitioner and also filed an application Exhibit 5, seeking temporary injunction restraining the petitioner from laying independent pipeline for irrigation of land survey No.613. The Co-operative Court rejected the application and the respondent-society preferred A.O.No.63/2005. After hearing the parties, the Co-operative appellate Court allowed the appeal and restrained the petitioner from laying pipeline and directed the Society to supply water to the land Gat Nos. 613 and 614 for irrigation. Against this order, the petitioner has preferred the present petition.

3. At the outset, it may be stated that as far as

the land Gat No.614 is concerned, there is no dispute between the parties. The dispute is restricted only in respect of irrigation of land gat No.613. Admittedly, land Gat No.613 is in the command area of the respondent-society which is having 1500 members. The Society is allowed to take water from Dudh Ganga River by the Irrigation Department for irrigation of land of its members. As per the rules, a person who holds land within the command area and who is willing to accept the conditions laid down in the rules, may become member of the respondent-society. He has to enter into a contract and execute an agreement in favour of the Society. One of the conditions of the agreement is that the Society is entitled to lay pipelines, channels, etc. through the land of such member for the purpose of water supply within the command area. For raising financial resources for successful execution of the work, the Society can also mortgage the land of the members with the Land Development Bank or such other financial institution. Admittedly, as far as the land Gat No.614 is concerned, the petitioner was a member. The record also reveals that his predecessor-in-title was also a member of the Society in respect of the land Gat No.613 and record reveals that from the year 1998 to 2003, water card was issued and the land Gat No.613 was being irrigated by the resources of the Society. The predecessor-in-title of the petitioner had also signed

the documents for the purpose of renewal of permission from the Irrigation Department during that period. It appears that after purchase of the land gat No.613, the petitioner is trying to lay independent pipeline from Dugh Ganga River, may be with the intention to get more water for his benefit and this is objected by the Society.

4. The Society has been formed for the overall development and for the benefit of the cultivators within the command area. For the benefit of all the members, it is necessary that there should be equitable distribution of water to all the members. If some member wants to get more benefits by taking water from the sources of the Society, but independently and without control of the Society, the immediate effect would be on the other members and there cannot be equitable distribution of water. Such an act of any individual member may be prejudicial to the interest of other members of the Society. It is not the case of the petitioner that by laying independent pipeline for Gat No.613, he intends to use some other water resources, which are not being used or tapped by the Society. If that would be so, possibly, the Society could not take any objection. But if the petitioner is trying to consume the resources of the Society, but independently, the Society has every right to take objection because it

is the authorised society duly permitted by the Irrigation Department to take water for the lands within its command area.

5. Taking into consideration the circumstances, I find no fault with the impugned order passed by the Co-operative Appellate Court. There is no substance in the Petition.

The Petition stands dismissed.

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(J.H.BHATIA,J.)